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Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Market-Dominant Price Change | Docket No. R2023-1

PUBLIC REPRESENTATIVE COMMENTS

(November 7, 2022)

I. INTRODUCTION

On October 7, 2022, the Postal Service filed a notice of rate adjustments for Market Dominant domestic and international products and services, together with proposed classification changes to the Mail Classification Schedule (MCS).[1] By notice, the Commission established this proceeding on October 11, 2022, to consider the proposed rate adjustments and MCS changes.[2] The undersigned was appointed as the Public Representative in this proceeding.[3]

The Postal Service is proposing rate adjustments authorized under 39 U.S.C. § 3622 and subject to 39 C.F.R. part 3030 of the Commission's regulations. These are the third Market Dominant rate adjustments since the Commission's revision of the Market Dominant ratemaking system pursuant to 39 U.S.C. § 3622(d)(3).[4]

Prior to the issuance of Order No. 5763, Market Dominant rate adjustments were subject to a price cap, adjusted annually for changes in inflation as determined by the Consumer Price Index for All Urban Consumers (CPI-U). In addition, the Postal Service was

[1] United States Postal Service Notice of Market-Dominant Price Change, October 7, 2022 (Notice).

[2] Notice and Order on Price Adjustments and Classification Changes for Market Dominant Products, October 11, 2022 (Order No. 6296).

[3] Order No. 6296 at 4. Assisting the Public Representative in this proceeding is Cherry Yao in the Commission's Office of Accountability and Compliance.

[4] Docket No. RM2017-3, Order Adopting Final Rules for the System of Regulating Rates and Classes for Market Dominant Products, November 30, 2020 (Order No. 5763).

authorized to utilize banked rate authority to increase Market Dominant prices based on previously unused rate adjustment authority.[5]

Under the rules adopted by Order No. 5763, the Postal Service has received additional rate authority to address three effects not previously taken into account: (1) decreases in mail density (*see* 39 C.F.R. part 3030, Subpart D); (2) revenue needed to meet certain retirement obligations (*see id.*, Subpart E); and (3) increased rates for non-compensatory classes or products (*see id.*, *S*ubpart G). Order No. 5763, Attachment A at 24-39. As discussed below, the Postal Service has already used this additional rate authority in R2022-1.

The Commission's Order No. 5763 also modified the requirements for workshare discounts. Order No. 5763 at 198-225. They generally prohibit the reduction or increase of workshare discounts that are equal to avoided costs, prohibit the reduction of workshare discounts that are below avoided costs and prohibit the increase of workshare discounts that exceed avoided costs. *Id.* at 198-199. The Postal Service has "several options to address any non-compliant workshare discounts identified in the most recent ACD or any discount being proposed in the rate adjustment proceeding that is low or excessive." *Id.* at 199.

Order No. 5763 also eliminated the earlier requirement that the objectives and factors set forth in 39 U.S.C § 3622(b) and (c) would be reviewed by the Commission in its pre-implementation review of Market Dominant rate adjustments. *Id.* at 255-265.

II. COMPLIANCE WITH PRICE CAP REQUIREMENTS

On March 29, 2022, the Commission determined that the available amount of density-based rate authority is 0.583 percent, determined that the available amount of retirement-based rate authority is 0.785 percent, and awarded an additional 2 percentage points of rate authority for Periodicals and Package Services.[6] The class-specific banked cap space from

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[5] *See, e.g.,* Docket No. R2021-1, United States Postal Service Notice of Market-Dominant Price Change, October 9, 2020, at 3-4.

[6] Docket No. ACR2021, Determination of Available Market Dominant Rate Authority, March 29, 2022, at 12 (Order No. 6130).

prior years result in the following total available cap space for each of the Postal Service's five mail classes:

Table 1
Total Available Cap Space by Mail Class

Class	Total Cap Space (%)
First-Class Mail	4.201
USPS Marketing Mail	4.205
Periodicals	4.200
Package Service	4.200
Special Services	4.262

Source: Notice at 5.

Based upon the total cap space available for each mail class, the Postal Service is making the following percentage price changes by class:

Table 2
Price Changes by Mail Class

Class	Percent Change
First-Class Mail	4.200
USPS Marketing Mail	4.202[7]
Periodicals	3.456[8]
Package Services	4.197

[7] The Notice states a 4.203 percent change for USPS Marketing Mail. However, in its Response to CHIR No. 2, question 2, the Postal Service corrected its workpaper to show a 4.202 percent change, with 0.003 percent remaining cap space banked. Responses of the United States Postal Service to Chairman's Information Request No. 2, October 25, 2022, question 2 (Response to CHIR No. 2). The Public Representative interprets the corrected percent change as the true percent change that follows from the prices in the MCS. *See* Notice, Attachment A.

[8] The Notice states a 4.200 percent change for Periodicals. However, in its Response to CHIR No. 4, question 17, the Postal Service made corrections to its workpaper that result instead in a 3.456 percent change, with 0.744 percent unused cap space banked. Responses of the United States Postal Service to Chairman's Information Requestion No. 4, October 28, 2022, question 17 (Response to CHIR No. 4). The Public Representative interprets the corrected percent change as the true percent change that follows from the prices in the MCS and Revised MCS Pages. *See* Notice, Attachment A and Response to CHIR No. 4, Attachment A.

Special Services	4.198

Source: Notice at 5; Response to CHIR No. 2, question 2; Response to CHIR No. 4; question 17.

The unused cap space available to each mail class for future use is:

Table 3
Resulting Unused Cap Space by Mail Class

Class	**Remaining Cap Space (%)**
First-Class Mail	0.001
USPS Marketing Mail	0.003
Periodicals	0.744
Package Services	0.003
Special Services	0.064

Source: Notice at 6; Response to CHIR No. 2, question 2; Response to CHIR No. 4; question 17.

After reviewing the Postal Service's Cap Calculation workpapers, it appears that the Postal Service's proposed price adjustments do not exceed the price cap authority for any mail class and appear to conform to the requirements of title 39 of the United States Code and 39 C.F.R. part 3030.[9]

III. THE PROPOSED RATES

The Postal Service proposes rate adjustments for postal products in all five Market Dominant mail classes: First-Class Mail, USPS Marketing Mail, Periodicals, Package

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[9] While reviewing the Postal Service Cap Calculation workpapers, some minor errors were found that have no impact on the final calculations, but we list them here and suggest the Postal Service correct these in case that may change in the future: (1) In Library Reference USPS-LR-R2023-1/1, October 7, 2022, Excel file "CAPCALC-FCM-R2023-1.xlsx,", tab "Automated Flats," the volumes for 3-Digit Flat-Shaped RT DVD are blank. While the volumes in "3QFY22 FCM BD.xlsx" round to zero thousand, they are not exactly 0. Correcting this adds an additional $191 in current revenue and $198 in proposed revenue; (2) In Library Reference USPS-LR-R2023-1/2, October 7, 2022, Excel file "CAPCALC-USPSMM-R2023-1.xlsx," tab "Parcel," cell D256 uses current forwarding fee of flats instead of parcels.

Services, and Special Services. The adjusted rates are scheduled to go into effect on January 22, 2023. Notice at 1. The Postal Service will also offer two new promotional discounts in addition to several current promotions. *Id*. at 29. The Postal Service also asserts that it has complied with the pricing requirements for certain preferred categories of mail, discussed below in Section V. *Id.* at 33-35. The Postal Service identifies the changes to the MCS needed to implement the planned rate changes in Attachment A to the Notice in legislative format.

A. First-Class Mail

The Postal Service proposes a 4.200 percent average increase in First-Class Mail prices. *See id.* at 7. The prices for two First-Class Mail products (Presort Letters/Postcards and Outbound Single-Piece First-Class Mail International) will increase less than the class average. *Id.* Prices for the remaining three First-Class Mail products (Single-Piece Letters/Postcards, Flats, and Inbound Letter Post) are to increase by more than the class average. *Id.*

The above-average increase for Single-Piece Letters/Postcards will be 5.046 percent. *Id.* Within the Letters product, the first-ounce price for Stamped Single-Piece mail will increase 5.0 percent from 60 cents to 63 cents, and the first-ounce price for Metered Single-Piece Mail will increase by 5.3 percent from 57 cents to 60 cents. *Id.* The Postal Service states that these proposed changes will maintain the differential between stamped mail and metered mail at 3 cents. *Id.* It notes that “the meter price serves as a benchmark for the largest volume and revenue rate categories within First-Class Mail, (i.e., Automation Letters).” *Id.* The additional ounce rate will remain the same while the non-machinable surcharge is to increase from 39 cents to 40 cents. *Id.* at 7-8. The Postal Service states that Automation Letters, particularly 5-Digit Automation Letters, represent a significant part of First-Class volume and revenue, and that the price for 5-Digit Automation Letters will increase by 3.5 percent, slightly above the increase for Automation Letters as a whole. *Id.* at 8.

As discussed in more detail below, cost coverage for First-Class Mail Flats fell below 100 percent, resulting in the Postal Service increasing prices for this category by 6.2 percent, with an overall increase for Single-Piece Flats of 3.1 percent. *Id.* The Postal Service explains that:

> The 6.2 percent rate increase proposed for First-Class Mail Flats combined with two above-average rate increases of 9.2 percent for the class in Docket No. R2022-1 (implemented on July 10, 2022) and 10.3 percent in Docket No. R2021-2 (implemented on August 29, 2021), is expected to allow Flats product revenue to exceed its cost, turning Flats into a compensatory product.

Id. The Postal Service states that the remainder of the First-Class Mail price authority is applied to “cards and International letters, cards, and flats.” *Id.* at 9.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed First-Class Mail prices are consistent with the price cap.

B. USPS Marketing Mail

The Postal Service initially proposed a 4.203 percent change in overall USPS Marketing Mail prices. *See id.* at 10. Since the initial filing, they have updated and revised this to a 4.202 percent change in overall USPS Marketing Mail prices. Response to CHIR No. 2, question 2. Two of the USPS Marketing Mail products are to increase less than the class average: Letters (3.292 percent) and Every Door Direct Mail – Retail (1.070 percent). Notice at 11.

Because the Commission has found that three USPS Marketing Mail products did not cover their costs, their prices are being raised by a minimum of 2 percentage points above the class average.[10] Therefore, the prices for USPS Marketing Mail Flats are raised by 6.251 percent, Parcels by 20.493 percent, and Carrier Route by 6.209 percent, while the Letters product—representing 61 percent of USPS Marketing Mail revenue—is receiving an increase below the class average. Notice at 11. High Density Letters increased by 6.180 percent in order to more closely align its price with other presort price levels. *Id*.

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[10] Docket No. ACR2021, *Annual Compliance Determination*, March 29, 2022, at 50 (FY 2021 ACD).

Detached Marketing Labels (advertising) will increase from 8 cents to 9 cents, a 12.5 percent increase, while Detached Address Labels (public service messages) will increase from 6.5 cents to 7.0 cents, an increase of 7.7 percent. *Id.* at 12.

The Postal Service proposes five new discounts for USPS Marketing Mail flat-shaped pieces on sectional center facility (SCF) pallets (*i.e.,* pallets on which all pieces are destined to zip codes served by a single SCF). *Id.* at 12. The Postal Service asserts that, pursuant to 39 C.F.R § 3030.123(h)(1), these discounts are expected to improve the efficient flow of SCF pallets through the mail network, reduce mail processing costs, and improve service performance. *Id.* The Postal Service states that these discounts are similar to so-called "Direct Container discounts" previously approved by the Commission. *Id.* at 12-13. It also claims that neither the rates nor the service will affect users of postal services that do not take advantage of them, that the discounts are generally available, and that for users who choose not to take advantage of the discounts, all other rates will still exist. *Id*. at 14-15.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed prices for USPS Marketing Mail are consistent with the adjusted price cap.

C. Periodicals

The Postal Service initially proposed an overall increase in Periodicals prices of 4.200 percent. *See id.* at 21. Since the initial filing, they have corrected the workpapers and revised this to a 3.456 percent overall change. Response to CHIR No. 4, question 17. The increases for the two products in this class—Outside County and In-County—are discussed further below in Section VII, Non-Compensatory Products.

According to the Postal Service, it set prices for Periodicals that incorporate several strategies aimed at improving cost coverage: (1) an increase in editorial pound prices intended to recapture lost revenue due to the shifting of pounds from advertising to editorials; (2) reducing tub prices relative to sack prices to encourage more efficient mail handling; (3) maintaining the price differentials between basic Carrier Route and Machinable Automation 5-Digit Flats to encourage the preparation of Carrier Route IECES; (4) accepting flatcontaining sacks only at destination sectional center facilities (DSCF), sort and distribution centers (SDC), and destination delivery units (DDU) to improve efficiency; and (5) pricing bundles of sacks entered elsewhere as if they are in mixed area distribution center (Mixed ADC) containers. *Id.* at 21-22.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed prices for Periodicals are consistent with the adjusted price cap.

D. Package Services

The Postal Service proposes an overall increase in Package Services prices of 4.197 percent. *See id.*at 25. The Commission determined that attributable costs for the Package Services class exceeded revenue in its FY 2021 ACD. FY 2021 ACD at 36. Therefore, the Postal Service is using nearly all its cap space to increase cost coverage. *Id.* at 25. Bound Printed Matter (BPM) Parcels receive the largest percentage rate increase of 4.641 percent. *Id.* Media/Library Mail rates increase 4.381 percent. *Id*. BPM Flats receive a below average increase of 2.528 percent to balance out the other increases above the rate cap. *Id*. at 25-26. Alaska Bypass receives an increase of 4.205 percent. *Id.* at 25.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed prices for Package Services are consistent with the adjusted price cap.

E. Special Services

The Postal Service proposes a 4.198 percent change in Special Services prices. *See id.* at 27. Of the nine Special Services products listed in Table 19 of the Notice, only Money Orders was found in the FY 2021 ACD not to have covered its attributable costs. *Id.* at 28; FY 2021 ACD at 70. The Commission directed the Postal Service to increase its cost by at least 2 percentage points above the class average and the Postal Service complied by proposing an increase of 6.685 percent. Notice at 28; FY 2021 ACD at 69. Of the remaining

8 Special Services products, the increases for four products are below the class average and four products are above the class average. Notice at 27.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed prices for Special Services are consistent with the adjusted price cap.

IV. WORKSHARE DISCOUNTS

The workshare rules set out requirements for adjusting workshare discounts. The rules prohibit moving discounts further from avoided cost as follows: workshare discounts that already equal 100 percent of avoided cost may not be changed; workshare discounts that exceed avoided costs may not be increased; and workshare discounts that fall short of avoided cost may not be decreased. 39 C.F.R. § 3030.282.

In most cases, the rules specify a minimum adjustment to workshare discounts that the Postal Service must make to improve the alignment of discounts with avoided cost. *See* 39 C.F.R. §§ 3030.283 and 3030.284. However, 39 C.F.R. § 3030.284(e) allows the Postal Service to set workshare discounts below 100 percent passthrough, if the passthrough for the proposed discount is at least 85 percent.

In its Notice, the Postal Service discusses workshare discounts for four mail classes—First-Class Mail, USPS Marketing Mail, Periodicals, and Package Services. There are no workshare discounts for Special Services. *See* Notice at 28.

A. First-Class Mail

Nine First-Class Mail workshare discounts passthrough 100 percent of avoided cost. *See id.* at 9. Six passthroughs are between 85 and 100. *Id.* One passthrough is below 85 percent (Non-automation Machinable Mixed automated area distribution center (AADC) Letters), but the increase in the discount for Non-automation Machinable Mixed AADC Letters (22.7 percent) exceeds the minimum adjustment required under 39 C.F.R. § 3030.284(c).

See id. at 9-10. Accordingly, the Public Representative finds that the proposed workshare discounts for First-Class Mail comply with the Commission's rules.

B. USPS Marketing Mail

Of the 56 passthroughs in USPS Marketing Mail, the Postal Service set 30 workshare discounts equal to avoided cost. *See id.* at 15. Fourteen discounts have passthroughs between 85 and 100 percent. *Id.*

Eleven passthroughs are below 85 percent, while one passthrough is above 100 percent. *Id.* These passthroughs are discussed below.

1. Non-automation AADC Machinable Letters

The proposed passthrough for Non-automation AADC Machinable Letters is 66.7 percent. *Id.* The Postal Service intends to increase the existing discount by 25 percent, more than the minimum 20 percent increase required by 39 C.F.R. § 3030.284(c). Therefore, the Public Representative finds that the proposed discount for Non-automation AADC Machinable Letters is consistent with workshare discount rules.

2. USPS Marketing Mail Flats

The proposed discount for 3- & 5-Digit (Automation and Non-automation) Origin Flats on SCF Pallets is set at 63.6 percent passthrough. *Id.* at 16. This sub-85 percent discount is permissible for a new product under 39 C.F.R. § 3030.284(b). *See id.*

3. Destination Network Distribution Center (DNDC) Carrier Route Flats

The Postal Service set the proposed DNDC Carrier Route Flats dropship passthrough at 80.5 percent. *Id*. at 16. The Postal Service intends to increase the discount by 21.0 percentage points, as required by 39 C.F.R. § 3030.284(c). As such, the Public

Representative finds that the proposed discount for DNDC Carrier Route Flats is consistent with workshare discount rules.

4. DDU Carrier Route Flats

The Postal Service explains that the passthrough for DDU Carrier Route Flats is set at 104.9 percent. *Id.* at 17. As it explains in the Notice, this passthrough is in accordance with a waiver granted by the Commission under 39 C.F.R. § 3030.286.[11] As such, the Public Representative finds that this discount is permissible pursuant to 39 C.F.R. § 3030.283(d).

5. Origin Flats on SCF Pallets

The proposed passthrough for Origin Flats on SCF Pallets is set at 50.0 percent. Notice at 17. This sub-85 percent discount is permissible for a new product under 39 C.F.R. § 3030.284(b). *See id.*

6. USPS Marketing Mail High Density and Saturation Letters

One proposed workshare discount within USPS Marketing Mail High Density and Saturation Letters—High Density Letters—falls below 85 percent passthrough. *Id*. at 17-18. Because the Postal Service intends to increase this discount by 20 percent, as required by 39 C.F.R. § 3030.284(c), the Public Representative finds that the proposed discount is consistent with Commission rules.

7. USPS Marketing Mail High Density and Saturation Flats & Parcels

The Postal Service explains that, within USPS Marketing Mail High Density and Saturation Flats & Parcels, there are six passthrough discounts below 85 percent, which are

[11] *Id.* (citing Docket No. RM2022-12, Order Approving Postal Service Application for Waiver Under 39 C.F.R. § 3030.286, August 30, 2022, (Order No. 6261)).

discussed individually below. For the reasons that follow, the Public Representative finds that each discount is permissible under Commission rules.

The proposed discount for High Density Flats on Delivery Sort Containers passes through 68.2 percent of the costs avoided by the Postal Service. *Id.* at 18. The Postal Service intends to increase the current discount by 25.0 percent, as required by 39 C.F.R. § 3030.284(c). *See id.*

The proposed passthrough for High Density Plus Flats on Delivery Sort Containers is set at 54.5 percent. *Id*. at 19. The Postal Service achieves this by increasing the current discount by 20.0 percent, as required by 39 C.F.R. § 3030.284(c). *See id.*

The proposed discount for Saturation Flats on Delivery Sort Containers passes through 40.9 percent of the costs avoided by the Postal Service. *Id*. at 19. The Postal Service intends to increase the current discount by 28.6 percent, as required by 39 C.F.R. § 3030.284(c). *See id.*

The workshare discount for High Density Flats on SCF Pallets is set at 36.4 percent passthrough. *Id*. at 20. This sub-85 percent discount is permissible for a new product under 39 C.F.R. § 3030.284(b). *See id.* Though this discount complies with Commission rules, the Public Representative questions the rationale for setting the discount so far below avoided cost. It seems unlikely that such a small discount would influence mailer behavior, and thus it only serves to provide additional discounts to mailers already engaged in the workshare activity. Although the Commission's rules require incremental improvements towards efficiency, if the Postal Service adjusts discounts by the minimum amount permissible under the Commission's rules, it could take several years to bring discounts in line with the costs avoided. The Public Representative encourages the Postal Service to exceed the minimum adjustment permissible in future rate adjustments.

The workshare discount for High Density Plus Flats on SCF Pallets is set at 31.8 percent passthrough. *Id*. This sub-85 percent discount is permissible for a new product under 39 C.F.R. § 3030.284(b). *See id.* Though this discount complies with Commission rules, the Public Representative again questions the rationale for setting a discount so far below avoided cost, as explained above. The Public Representative encourages the Postal Service to exceed the minimum adjustment permissible in future rate adjustments.

The workshare discount for Saturation Flats on SCF Pallets is set at 9.1 percent passthrough. *Id*. This sub-85 percent discount is permissible for a new product under 39 C.F.R. § 3030.284(b). *See id.* Though this discount complies with Commission rules, the Public Representative again questions the rationale for setting a discount so far below avoided cost, as explained above. The Public Representative encourages the Postal Service to exceed the minimum adjustment permissible in future rate adjustments.

C. Periodicals

No Periodicals workshare discounts exceed avoided cost. *Id.* at 22. After the Postal Service's intended increases, six passthroughs will still be set below 85 percent. *Seeid.*at 22-23. For each of the six discounts with passthroughs set below 85 percent, the Postal Service increased the existing discounts as follows:

1. Outside County Saturation by 22.7 percent
2. In-County 3-Digit Presort by 20.0 percent
3. In-County 5-Digit Presort by 20.8 percent
4. In-County CR Basic by 20.0 percent
5. In-County Saturation by 20.0 percent
6. DDU Dropship by 25.0 percent

Id. The Public Representative finds that the proposed discounts are consistent with the workshare rules and more closely adhere to Efficient Component Pricing (ECP) principles than the existing Periodicals discounts.

D. Package Services

Two Package Services workshare discounts (the dropship discounts for Basic, Carrier Route DNDC Flats and Basic, Carrier Route DSCF Flats) are set at 100 percent passthrough.

See Notice, Attachment B R2023-1.xlsx, tab “Bound Printed Matter Flats.” All other Package Services passthroughs are already set between 85 and 100 percent. *See* Notice, Attachment B R2023-1.xlsx, tabs “Bound Printed Matter Parcel,” “Bound Printed Matter Flats,” and “Media Mail & Library Mail.”

The Public Representative finds that the proposed Package Services workshare discounts comply with the Commission’s rules and represent an improvement towards the Commission’s goal to increase adherence to ECP principals.

V. PREFERENTIAL RATES

The Public Representative has reviewed the Postal Service’s Notice for compliance with the required statutory preferential rates for certain preferred mail categories. After review of the Preferential rates requirements, the Public Representative concludes that the Postal Service fulfills the requirements of 39 U.S.C. § 3626, as described below.

A. Periodicals

For Periodicals, there are several requirements for the preferred categories. The Postal Service states that prices for In-County Periodicals reflect their preferred status by keeping the prices of In-County Periodicals below the prices of regular Outside County Periodicals. Notice at 34 (citing 39 U.S.C. § 3626(a)(3)). The Postal Service also states that the proposed rates comply with the requirement that Nonprofit and Classroom Periodicals receive a 5 percent discount on all components of postage except for advertising pounds and ride-along postage. *Id.* (citing 39 U.S.C. § 3626(a)(4)(A)). The Postal Service further states that the Science of Agriculture Periodicals receive the required preferential treatment of at least 75 percent of the advertising pound rates for regular Outside County Periodicals. *Id.* (citing 39 U.S.C. § 3626(a)(5)). Rates for DDU, DSCF and destination area distribution center (DADC) are 75 percent of the rates applicable to regular Outside County Periodicals, and all other advertising pound prices for Zones 1 & 2, and all other zones, are 75.1 percent of the rates applicable to regular Outside County Periodicals. *Id.* Finally, the limited circulation discount for Periodicals provides for preferential treatment for Periodicals with fewer than 5,000 Outside County pieces and at least one In-County piece. *See* 39 U.S.C. § 3626(g)(4). According to the Postal Service, those pieces will continue to receive a discount equivalent to the Nonprofit and Classroom Periodicals discount. Notice at 35.

B. USPS Marketing Mail

For USPS Marketing Mail, nonprofit rates must yield per-piece revenue that equal, as nearly as practicable, 60 percent of the estimated commercial average per-piece revenue. 39 U.S.C. § 3626(a)(6)(A). The Postal Service states that the proposed prices achieve a revenue per piece ratio of 59.9 percent calculated at the class level, consistent with past practice. Notice at 34-35. It also states that nonprofit discounts are being maintained "equal to the comparable commercial discounts." *Id.* at 35.

C. Package Services

For Package Services, Library Mail must be as nearly as practicable to 95 percent of the Media Mail prices. *See* 39 U.S.C. § 3626(a)(7). The Postal Service states that the requirement is met by setting each Library Mail element equal to 95 percent of the corresponding Media Mail rate element. *Id.* at 35.

VI. PROMOTIONS

The Postal Service states that it is offering six promotional discounts in calendar year (CY) 2023: Reply Mail IMbA; Retargeting Mail; Emerging & Advanced Technology; Informed Delivery; Personalized Color Transpromo; and Tactile, Sensory, and Interactive Engagement. *Id*. at 29.

Two of the promotions (Reply Mail IMbA and Retargeting Mail) are new promotions. *Id.* The Reply Mail IMbA promotion provides a 3 percent discount for mailers who use static IMbA on qualifying postage for First-Class Mail presort and automation letters and a 6 percent discount for mailers who use serialized IMbA. *Id.* at 32. The Retargeting Mail promotion provides a 5 percent discount to preapproved mailers on qualifying postage for First-Class Mail automation postcards that are mailed in connection with website or app behavior during the established program period. *Id.* The other four promotions were previously offered in CY 2022, although the corresponding discounts have changed for some.[12]

According to the Postal Service, the changes in promotions generate an additional $13.5 million cap space for First-Class Mail and an additional $28.4 million cap space for USPS Marketing Mail. *Id.* at 29-30.

Based upon review of the Notice and supporting information, the Public Representative concludes that the proposed promotions are consistent with the provisions of applicable law and the requirements of 39 C.F.R. part 3030.

VII. NON-COMPENSATORY PRODUCTS

In its FY 2021 ACD, the Commission found nine products to be non-compensatory. FY 2021 ACD at 2-3. Five of the non-compensatory products are in the compensatory mail classes. *Id.* at 3. The five are First-Class Mail Flats, USPS Marketing Mail Flats, USPS Marketing Mail Carrier Route, USPS Marketing Mail Parcels, and Money Orders. *Id.* The remaining four non-compensatory products are in the non-compensatory Periodicals and Package Services mail classes. *Id.* at 2.

A. Non-Compensatory Products Within Compensatory Classes

Section 3030.221 of the regulations requires, in general, that the Postal Service shall increase the rates for non-compensatory products within a compensatory mail class by a minimum of 2 percentage points above the percentage increase for that class. *See* 39 C.F.R.

[12] *Id.* at 29. The discount for these promotions is as follows: Emerging & Advanced Technology (3 or 4 percent); Informed Delivery (4 percent and 0.5 percent); Personalized Color Transpromo (3 percent and 4 percent); and Tactile, Sensory, and Interactive Engagement (5 percent). *Id.* at 29-30.

§ 3030.221. An exception is provided for non-compensatory products for which the Postal Service lacks independent authority to set rates, such as rates set by treaty obligation. *Id.*

1. First-Class Mail Flats

First-Class Mail Flats is a Market Dominant product within First-Class Mail. In the FY 2021 ACD, the Commission found that its cost coverage decreased from 100.23 percent in FY 2020 to 98.93 percent in FY 2021 and was therefore non-compensatory. FY 2021 ACD at 44. The Commission directed the Postal Service to propose a price increase for First-Class Mail Flats that is at least 2 percentage points above the class average for the First-Class Mail class. *Id.* at 49.

In the case of First-Class Mail Flats, the Postal Service has proposed a 6.214 percent increase, which is 2.014 percentage points above the class average. Notice at 7. This proposed increase complies with the FY 2021 ACD and with 39 C.F.R. § 3030.221.

2. USPS Marketing Mail Flats

In the FY 2021 ACD, the Commission found that the cost coverage for USPS Marketing Mail Flats had fallen to 60.3 percent, 3 percentage points lower than the prior year. FY 2021 ACD at 50. The Commission directed the Postal Service to propose a price increase that is at least 2 percentage points above the class average for the USPS Marketing Mail class. *Id.* at 60-61.

In its Notice, the Postal Service proposes an increase of 6.251 percent, slightly more than 2 percentage points above the class average of 4.202 percent. Notice at 11. This proposed increase complies with the FY 2021 ACD and with 39 C.F.R. § 3030.221.

3. USPS Marketing Mail Parcels

In the FY 2021 ACD, the Commission found that the cost coverage for USPS Marketing Mail Parcels had fallen to 73.1 percent, down 3.4 percent from the year before. FY 2021 ACD at 65. The Commission directed the Postal Service to propose a price increase that is at least 2 percentage points above the class average for the USPS Marketing Mail class. *Id.* at 69.

In its Notice, the Postal Service proposes an increase of 20.493 percent, more than 16 percentage points above the class average of 4.202 percent. Notice at 11. This proposed increase complies with the FY 2021 ACD and with 39 C.F.R. § 3030.221.

4. USPS Marketing Mail Carrier Route

In the FY 2021 ACD, the Commission found that the cost coverage for USPS Marketing Mail Carrier Route had fallen to 94.6 percent from 96.2 percent the year before. FY 2021 ACD at 62. The Commission directed the Postal Service to propose a price increase that is at least 2 percentage points above the class average for the USPS Marketing Mail class. *Id.* at 65.

In its Notice, the Postal Service proposes an increase of 6.209 percent, slightly more than 2 percent above the class average of 4.202 percent. Notice at 11. This proposed increase complies with the FY 2021 ACD and with 39 C.F.R. § 3030.221.

5. Money Orders

In the FY 2021 ACD, the Commission found that the cost coverage for Money Orders had fallen to 88.5 percent from 97.7 percent the year before. *See* FY 2021 ACD at 69-70. The Commission recommended that the Postal Service propose an above-average price increase consistent with 39 C.F.R. § 3030.221. *Id.* at 71.

In its Notice, the Postal Service proposes an increase of 6.685 percent, more than 2 percentage points above the class average of 4.198 percent. Notice at 27. This proposed increase complies with the FY 2021 ACD and with 39 C.F.R. § 3030.221.

B. Non-Compensatory Products Within Non-Compensatory Classes

The four non-compensatory products that are in non-compensatory mail classes are: Periodicals In-County, Periodicals Outside County, and the Package Services products of Media Mail/Library Mail and BPM Parcels. FY 2021 ACD at 2.

1. The Periodicals Class

In the FY 2021 ACD, the Commission found that the Periodicals class was non-compensatory, covering only 53.2 percent of its costs. FY 2021 ACD at 27. Both products in the Periodicals class—In-County Periodicals and Outside County Periodicals—were non-compensatory. *Id.* at 2. The Commission "encourage[d] the Postal Service to continue to maximize its usage of rate authority granted under 39 C.F.R. § 3030.222 and to maximize its revenue by strategically pricing Periodicals." *Id.* at 31.

In Order No. 6130, the Commission determined that an additional 2 percentage points of rate authority was available under 39 C.F.R. § 3030.222(b). Following Order No. 6130, the Postal Service had 8.540 of available cap space for the Periodicals class.[13] Exercise of this additional rate authority is optional at the discretion of the Postal Service. 39 C.F.R. § 3030.222(a). The Postal Service chose to use the full 8.540 percent of the available cap capacity during in Docket No. R2022-1, banking 0.000 percent for this proceeding. *See* Notice at 4-5.

In-County Periodicals will be increased by 7.614 percent, which is above the class average of 3.456 percent. *See* Response to CHIR No. 4, Excel file "USPS-CAPCAL-PER-R2023-1BRADJ.xlsx", tab "Summary." Outside County Periodicals will be given an increase of 3.231 percent, slightly below the class average of 3.456 percent. *Id.* The Public Representative finds that both increases comply with the FY 2021 ACD. However, the Public Representative notes that the overall price increase is lower than the available cap space, which could result in a more drastic increase in the future.

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[13] Docket No. R2022-1, United States Postal Service Notice of Market-Dominant Price Change, April 6, 2022, at 4 (Docket No. R2022-1 Notice).

2. The Package Services Class

In the FY 2021 ACD, the Commission found that the Package Services class covered 93.5 percent of attributable costs, up from 92.5 percent in FY 2020. *See* FY 2021 ACD at 36, Table III-4. The entire class was non-compensatory because of two non-compensatory products—Media Mail/Library Mail and BPM Parcels. *Id.*

In Order No. 6130, the Commission determined that an additional 2 percentage points of rate authority is available for Package Services under 39 C.F.R. § 3030.222(b). Order No. 6130 at 12. Following Order No. 6130, the Postal Service had 8.511 percent of available cap space for the Package Services class and chose to use all of that space in Docket No. R2022-1. *See* Docket No. R2022-1 Notice at 4.

a. Media Mail/Library Mail

In the FY 2021 ACD, the Commission found that the cost coverage for Media Mail/Library Mail was 84.3 percent. FY 2021 ACD at 36. The Commission recommended that the Postal Service continue to propose above-average price increases in its rate adjustment proceedings. *Id.* at 43.

In its Notice, the Postal Service proposes an increase of 4.381 percent, which is slightly above the class average of 4.197 percent. Notice at 25. This proposed increase complies with the FY 2021 ACD.

b. Bound Printed Matter (BPM) Parcels

In the FY 2021 ACD, the Commission found that the cost coverage for BPM Parcels had increased slightly to 94.6 percent, up from 94.0 percent. FY 2021 ACD at 37. The Commission directed the Postal Service to increase BPM Parcels by at least 2 percentage points above the class average in each Market Dominant rate case through the issuance of the FY 2022 ACD. *Id.* at 40. However, the Postal Service moved to reconsider this directive, asserting that the Commission exceeded its authority by issuing the directive without first making a finding that BPM Parcels violated a provision of 39 U.S.C. chapter 36 (or the underlying regulations) and that such a finding would not be justified.[14] In Order No. 6209, the Commission rescinded said directive, finding that "at the present time, giving a non-compensatory product in a [non-compensatory] class a below class average increase is not barred under the regulations and is within the scope of the pricing flexibility allowed by the system of ratemaking." Order No. 6209 at 8. However, the Commission cautioned that "[g]iving a below average price increase to a non-compensatory product in a non-compensatory class is antithetical to the intent behind the additional rate authority for non-compensatory classes that price increases be targeted toward improving the cost coverage of non-compensatory products." *Id.*

In its Notice, the Postal Service proposes an increase of 4.641 percent, slightly above the class average of 4.197 percent. Notice at 25. The proposed increase complies with the FY 2021 ACD and Order No. 6209.

VIII. MAIL CLASSIFICATION SCHEDULE REVISIONS

The Postal Service states that it is making a minor change to the MCS in that it is changing a country name from "Turkey" to "Turkiye." Notice at 36. It explains that this change comes in response to a request through the Universal Postal Union via *International Bureau Circular* 141 and complies with the requirements set forth in 39 C.F.R. § 3040.190 in that the change: (a) results in the MCS more accurately representing the Postal Service's current offerings and allows mailers to locate information more precisely; (b) was filed more than 15 days prior to proposed implementation; and (c) is merely a revision to one possible destination without changing the product in question or applicable prices. *Id.* at 36-37. The Public Representative concurs and believes that the change complies with 39 C.F.R. § 3040.190.

The Postal Service's Response to CHIR No. 2 reveals several more amendments to the MCS. First, the Postal Service explains that it "has decided to end its Signature

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[14] *See, e.g.*, Docket No. ACR2021, Order Granting Motion for Reconsideration of Directive Regarding Bound Printed Matter Parcels, June 23, 2022, at 4 (Order No. 6209).

Confirmation and Certificates of Mailing offerings for returns due to low usage and to simplify its product offerings." Response to CHIR No. 2, question 9.a. The Postal Service states that customers that use these services often find the pricing to be "confusing and challenging," and that by eliminating these services, the Postal Service will "clear up the confusion customers have while purchasing returns services and it will provide customers who choose the Postal Service for return services with a more efficient process." *Id.*, question 9.b.

The Postal Service also states that it no longer intends to offer "Correction of Address Lists" and "ZIP Code Sortation of Address Lists" as services under the Address Management Services product. *Id.*, question 10. The Postal Service explains that "[t]hese manual services had extremely low usage" and "[d]ue to the availability of electronic alternatives the Postal Service does not foresee any negative impact on users of these services." *Id.*, question 10. a-b.

In terms of the removal of these services, the Public Representative urges the Commission to consider whether these alterations constitute a material change to a product description under 39 C.F.R. § 3040.180. Commission regulations "distinguish[ ] between material changes and minor corrections to the descriptive content in the MCS…."[15] The primary driver when determining whether a classification alteration is a material change or a minor correction is "the degree to which the proposed alteration affects the characteristics of the product."[16] Other factors include "whether the proposed change would significantly alter the user experience for the product and whether it would significantly impact competitors offering a similar service." Order No. 5761 at 4 (citation omitted). The Postal Service does not explain why the removal of services that it proposes constitutes mere minor corrections to

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[15] Docket No. RM2015-6, Order Adopting Final Rules on Changes and Corrections to the Mail Classification Schedule, June 16, 2015, at 2 (Order No. 2543). Should the corrections in reality constitute material changes, additional requirements would apply. *See* 39 C.F.R. § 3040.181.

[16] *See* Docket No. MC2021-25, Order Approving Minor Corrections to the Mail Classification Schedule, November 25, 2020, at 3-4 (Order No. 5761) (citing Docket No. RM2015-6, Notice of Proposed Rulemaking on Changes and Corrections to the Mail Classification Schedule, November 14, 2014, at 9, 14 (Order No. 2250)).

the MCS. If the removal constitutes a material change, certain procedural safeguards would be triggered.[17]

IX. CONCLUSION

The Public Representative respectfully submits to the Commission the foregoing Comments in this proceeding.

Respectfully submitted,

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[17] *See* 39 C.F.R. § 3040.182. In this same vein, the Public Representative notes that the Postal Service's changes to the MCS to implement its plan to accept "sacks containing flats only at Destination Sectional Center Facility (DSCF), Sort and Distribution Centers (SDC), and Destination Delivery Units (DDU)" may also implicate 39 C.F.R. § 3040.180, should the Commission determine that the user's experience of effected products will be significantly altered. *See* Notice at 21; Response to CHIR No. 2, question 10.